

**Brookline Board of Appeals
February 25, 2016, 7:00 PM
Public Hearing**

**333 Washington Street
6th Floor Selectmen's Hearing Room**

Board Members Present: Johanna Schneider (Chair), Jonathan Book, Christopher Hussey
Staff Present: Jay Rosa (Planning Department)

1003 Beacon Street

Proposal: Expand bakery seating from 8 to 35

Zoning District: L-1.0 (Local Business)

Precinct: 1

Board Decision: Relief request **granted**, subject to conditions

27 Woodland Road

Proposal: Construct a 28' x 17' pool house

Zoning District: S-25 (Single-Family)

Precinct: 15

Board Decision: Relief request **granted**, subject to conditions

164 Dean Road

Proposal: Extend roof of rear bay

Zoning District: S-25 (Single-Family)

Precinct: 14

Board Decision: Relief request **granted**, subject to conditions

Minutes shall be posted on the Town of Brookline website (<http://www.brooklinema.gov/564/Zoning-Board-of-Appeals>) upon approval. Draft minutes shall be made available upon request.

Decisions shall be posted on the Town of Brookline website (www.brooklinema.gov). Appeals, if any, shall be filed with land court or superior court within twenty days after the date of filing of such notice in the office of the town clerk.

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Board Members Present – Johanna Schneider (Chair), Jonathan Book, Christopher Hussey
Staff Present – Jay Rosa (Planning Dept.)

1003 Beacon Street – Expand bakery seating from 8 to 35

Board Chairwoman Johanna Schneider opened the hearing and called case #2015-0075. Mr. Schneider reviewed standard hearing procedure.

Petitioner, Tzurit Or, waived the reading of public hearing notice for the record and stated that she has owned and operated Tatte Bakery at 1003 Beacon Street since 2008. Ms. Or considered various opportunities to expand her bakery operations at this location since 2008 with the intent to improve customer service and overall kitchen facilities. Ms. Or stated that the attached commercial unit at 1005 Beacon Street was recently vacated presenting an ideal opportunity for expansion. Ms. Or stated that interior renovation will increase the bakery square footage by approximately 900 square feet and create 27 additional customer seats, as well as two public restrooms. Ms. Or confirmed that this seating expansion triggers the need for addition off-street parking which the Board of Appeals may waive by special permit.

Board Chairwoman Schneider requested that the Petitioner describe the number of bakery employees and the current number of parking spaces that are specifically designated for these employees. Ms. Or stated that the expanded bakery operations will require ten to twelve employees and two off-street parking spaces will be provided. Ms. Or further stated that the majority of these employees utilize public transportation to commute to work but the bakery manager does often drive to work.

Board Member Christopher Hussey questioned whether all attached commercial units from 999 to 1009 Beacon Street are located on the same lot and if the parking area located at the rear of this lot is utilized by all commercial tenants. Zoning Coordinator Jay Rosa confirmed that all commercial units are under common ownership and located on the same lot (Parcel ID #112 2526). Ms. Or stated that additional parking spaces at the rear of the lot that are not specifically assigned to commercial tenants do operate on a “first come first serve” basis.

Board Chairwoman Schneider called for public comment in favor of, or in opposition to, the Petitioner's proposal.

No members of the public commented.

Board Chairwoman Schneider requested that Mr. Rosa review the findings of the Planning Board.

Mr. Rosa stated that the Planning Board unanimously recommended approval of the bakery expansion. The Petitioner has been a long-time business owner in Brookline and this upper portion of Beacon Street is pedestrian friendly and provides a variety of public transit options. Therefore,

the Planning Board recommended approval of the floor plan submitted by David McMahon, dated 12/3/2015, subject to the following conditions:

1. Prior to the issuance of a building permit the applicant shall submit a final floor plan including all proposed seating for review and approval by the Assistant Director for Regulatory Planning or designee.
2. Prior to issuance of a building permit, the applicant shall submit to the Building Commissioner to ensure conformance to the Board of Appeals decision: 1) a final floor plan, stamped and signed by a registered architect; and 2) evidence the Board of Appeals decision has been recorded at the Registry of Deeds.

Board Chairwoman Schneider requested that Mr. Rosa also review the findings of the Building Department. Mr. Rosa stated that the Building Department has no objection to the relief as requested. Mr. Rosa clarified that the proposed seating increase actually necessitates 8.75 off-street parking spaces total, which is rounded to nine (9) parking spaces as required by the Zoning By-Law. Mr. Rosa further stated that the bakery currently provides two (2) designated parking spaces and the adjacent retail space to be taken over provides an existing parking credit of four (4) spaces based on the gross floor area for a ground-floor retail use. Following this evaluation, Mr. Rosa confirmed that the Petitioner is requesting a parking waiver of three (3) off-street parking spaces and the Board has the authority to waive up to ten (10) spaces under By-Law Section 6.02.1.b.

27 Woodland Road – Construct a 28 x 17 foot pool house

Board Chair Schneider called case #2015-0072 and reviewed standard hearing procedure.

The Petitioner's Attorney, Robert Allen of the Law Office of Robert Allen (300 Washington Street, Brookline, MA) waived the reading of public hearing notice for the record and stated that he is representing the Kraft family and Daniel Krantz. Attorney Allen stated that the Petitioners are proposing to construct a 221 square foot pool house/cabana. Attorney Allen described the subject lot as being oversized and the proposed pool house fully complies with floor area ratio (FAR) requirements for the district. Attorney Allen clarified that zoning relief is only necessary due to Zoning By-Law Section 4.07, Use 61 requirements which state that accessory pool houses are permitted as of right but do require a special permit if they are to exceed 150 square feet total.

Attorney Allen submitted three letters of support from abutting residents and reviewed project compliance with the standards for the grant of a special permit in accordance with By-Law Section 9.05. Attorney Allen concluded his comments by restating that the excess pool house floor area results in minimal impact due to the size of the lot, the location of the structure on this lot, and existing landscaped screening.

Ms. Schneider called for public comment in favor of, or in opposition to, the Petitioner's proposal.

No members of the public commented.

Ms. Schneider requested that Zoning Coordinator, Jay Rosa, review the findings of the Planning Board and the Building Department.

Mr. Rosa stated that the Planning Board unanimously recommended approval of the pool house. The lot is oversized and the accessory structure complies with all required yard setbacks so potential impact on abutting residents should be minimal. Board members did recommend a few modifications to the plans prior to final submission if approved. Requested revisions include the clear grade level for all final elevations and accurate page titles because the majority of submitted page titles are labeled as the roof framing plan.

Mr. Rosa confirmed that the Planning Board recommended approval of the certified site plan by Guerriere and Halnon, Inc, dated 11/7/15 and architectural plans by Andrew Sidford Architects, dated 9/22/15, subject to the following conditions:

- 1) Prior to the issuance of a building permit, the applicant shall submit a final site plan and final elevations and floor, plans subject to the review and approval of the Assistant Director of Regulatory Planning.
- 2) Prior to issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final site plan, stamped and signed by a registered engineer or land surveyor; 2) final building elevations and floor plans stamped and signed by a registered architect; and 3) evidence the decision has been recorded at the Registry of Deeds.

Mr. Rosa further stated that the Building Department also has no objection to the relief as requested. Mr. Rosa clarified that only the enclosed portion of the pool house is included for the purposes of calculating the total floor area. Accessory structures of 150 s.f. or less are permitted as of right in all districts and special permit relief is available under bylaw Section 4.07 to exceed that square footage maximum.

Board Deliberation

Board Members supported modifications to the stated conditions as recommended by the Planning Board. Board Member Book stated that the requested relief is minimal and the oversized lot can reasonably accommodate the modest pool house.

Board Member Hussey concurred with Mr. Book's comments.

Board Chairwoman Schneider agreed that the subject lot can clearly support the pool house as currently designed and the oversized nature of the accessory structure will have limited impact on neighboring properties.

Board Members were satisfied that the standards for the grant of a special permit are satisfied in accordance with Section 9.05 of the Zoning By-Law and unanimously voted to grant the requested relief subject to the following revised conditions:

- 1) Prior to the issuance of a building permit, the applicant shall submit a final site plan, final elevations including the record grade level, and final floor plans that include accurate sheet titles, subject to the review and approval of the Assistant Director of Regulatory Planning.
- 2) Prior to issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final site plan, stamped and signed by a registered engineer or land surveyor; 2) final building elevations and floor plans stamped and signed by a registered architect; and 3) evidence the decision has been recorded at the Registry of Deeds.

164 Dean Road – Extend roof of rear Bay

Board Chairwoman Schneider called case #2015-0073 and reviewed standard hearing procedure.

The Petitioner's Attorney, Robert Allen of the Law Office of Robert Allen (300 Washington Street) waived the reading of public hearing notice for the record and introduced Jay Ruderman and project architect Bruce Miller. Attorney Allen stated that Mr. Ruderman and his family have lived at the subject property since 2013 and the requested zoning relief will allow Mr. Ruderman to increase the height and overall condition of an existing rear bay. Attorney Allen further described the necessary rear-yard setback relief as being a pre-existing nonconformity.

Attorney Allen stated that the rear bay in question is approximately 15.9 feet in width and the Petitioner is proposing to increase the overall height by 2 ½ feet. This addition will not alter the existing footprint of the bay and the added headroom will improve the interior functionality of an existing first floor kitchen.

Attorney Allen emphasized the fact that the location of this addition at the rear of the home is not easily visible from surrounding properties and will result in little to no impact on abutting residents. Attorney Allen also detailed project compliance with the standards for the grant of a special permit in accordance with zoning By-Law Section 9.05. Attorney Allen submitted three letters from abutting residents in support of this proposal to the Board.

Board Member Christopher Hussey noted a slight discrepancy in the calculation of the rear yard setback in question and requested that the Petitioner confirm the rear-yard setback measurement. Attorney Allen confirmed that the submitted site plan includes a 33.1 foot rear yard setback. This distance represents that closest distance between the existing structure and the rear lot line. The setback of the proposed addition is 33.8 feet which is also not compliant with the required 50 foot setback for this S-25 zoning district.

Board Chairwoman Schneider called for public comment in favor of, or in opposition to the Petitioner's proposal.

No members of the public commented.

Board Chairwoman Schneider requested that Jay Rosa review the findings of the Planning Board and the Building Department. Mr. Rosa stated that the Planning Board had no objection to this modest alteration to the rear façade. The proposed height change of the rear bay improves the interior functionality and natural light for the ground floor kitchen. Board members also supported the use of painted panel and flat seam copper building materials. Mr. Rosa confirmed that the Planning Board recommends approval of the site plan by professional land surveyor David Lukens dated 12/9/15 and architectural plans by Bruce Miller, dated 10/8/15, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final elevations and floor plans subject to the review and approval of the Assistant Director of Regulatory Planning.
2. Prior to the issuance of a building permit, the applicant shall submit a final site plan, including landscaping and counterbalancing amenities, subject to the review and approval of the Assistant Director of Regulatory Planning
3. Prior to issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision:
1) a final site plan, stamped and signed by a registered engineer or land surveyor; 2) final building elevations and floor plans stamped and signed by a registered architect; and 3) evidence the decision has been recorded at the Registry of Deeds.

Mr. Rosa further stated that the Building Department also has no objection. Requested relief for the rear yard setback is a pre-existing nonconformity and the scope of work proposed is modest in scale and impact.

Board Deliberation

Board Member Hussey stated that he supported the request for rear yard setback relief and he believed that the standards for the grant of a special permit under By-Law Section 9.05 are satisfied. Mr. Hussey reiterated that the final written Board decision should include the accurate setback calculation as presented on the certified site plan.

Board Members Schneider and Book concurred with these comments and further stated support for the condition that a final landscaping plan be submitted detailing all counterbalancing amenities for said setback relief in accordance with Zoning By-Law Section 5.43.

Unanimous Board grant of requested relief, subject to conditions stated for the record.

Unanimous Board approval of draft hearing minutes from February 11 and February 4.

Hearing Closed